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OFFICE OF PETITIONS

In re Application of
David Catanzarite, et. al.
Application No. 10/691,073
Filed: October 22, 2003
Attorney Docket No. IR-3362

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 28, 2009, to revive the above-identified application.

The application became abandoned for failure to file a proper reply to the final Office action mailed July 25, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) with the \$810 fee and the required submission under 37 CFR 1.114; (2) the petition fee of \$1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office acknowledges receipt of \$1,110 for a three month extension of time filed on January 28, 2009. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r. Pats. 1988). Accordingly, since the \$1,110 extension of time was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

This application file is being referred to Technology Center Art Unit 3636 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions